

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

- v. -

ROBERT WISNICKI,

Defendant.

ORDER

22 Cr. 20 (PGG)

PAUL G. GARDEPHE, U.S.D.J.:

Defendant Wisnicki is scheduled for sentencing on February 15, 2024, at 2:00 p.m. In preparation for sentencing, the Court has reviewed victim impact statements collected by the Probation Department and described in the Presentence Report. In these statements – which were made available to defense counsel (PSR (Dkt. No. 406) at ECF 43) – victims speak of entrusting large amounts of money to Wisnicki that he stole – money that was intended, for example, to start a business, to pay for a new home in a different state, or to pay state taxes due on a closing. Elderly people lost money that they had intended to live on, while other victims speak of lost inheritances and the loss of their life savings. See id. at ¶¶ 64-67. Given that the Defendant has admitted to operating a Ponzi scheme over a fifteen-year period and to causing a variety of investors to lose a total of \$18.8 million (see Guilty Plea Tr. (Dkt. No. 309) at 27-29), the Court has no reason to question the assertions made by victims in the victim impact statements. Those statements appear to support a finding that Wisnicki’s conduct “resulted in substantial financial hardship to five or more victims,” pursuant to U.S.S.G. §2B1.1(b)(2)(B).

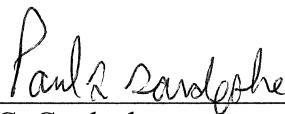
In his sentencing brief, however, Defendant Wisnicki states that “the defense is not in a position to verify or concede that [Wisnicki] caused substantial financial hardship to five or more investors.” (Def. Sent. Br. at 10, 27)

In the event that Defendant Wisnicki intends to dispute the four-level enhancement under U.S.S.G. §2B1.1(b)(2)(B) for causing “substantial financial hardship to five or more investors,” the Court will conduct a hearing concerning that issue on February 15, 2024, at 2:00 p.m., and will hear testimony from victims about their losses.

By **February 12, 2024**, Defendant Wisnicki will inform the Court whether he intends to dispute this enhancement, or whether he agrees that imposition of the four-level enhancement is appropriate.

Dated: February 9, 2024
New York, New York

SO ORDERED.



Paul G. Gardephe
United States District Judge